

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

TENOLA OLIVER	)	CASE NO.
8331 Landmark Court Apt. 207	)	
West Chester, Ohio 45069	)	JUDGE
	)	
on behalf of herself and all others similarly	)	
situated,	)	
	)	<b><u>PLAINTIFF'S COMPLAINT</u></b>
Plaintiff,	)	
	)	(Jury Demand Endorsed Herein)
vs.	)	
	)	
RELX INC. D/B/A LEXISNEXIS	)	
c/o Statutory Agent CT Corporation	)	
System	)	
4400 Easton Commons Way Suite 125	)	
Columbus, OH 43219	)	
	)	
Defendant.	)	

Now comes Plaintiff Tenola Oliver, by and through counsel, and for her Complaint against RELX Inc. d/b/a LexisNexis ("LexisNexis"), states and alleges the following:

**INTRODUCTION**

1. This is a "collective action" instituted by Plaintiff as a result of Defendant's practices and policies of misclassifying Plaintiff and other similarly-situated employees as "exempt", and not paying them overtime compensation at the rate of one and one-half times their regular rates of pay for the hours they worked over 40 each workweek, in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. 201-219, as well as a "class action" pursuant to Fed. R. Civ. P. 23 to remedy violations of the Ohio Minimum Fair Wage Standards Act ("OMFWSA"), R.C. 4111.03.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. 1331 and 29 U.S.C. 216(b).

3. The Court has supplemental jurisdiction over Plaintiff's OMFWSA claims pursuant to 28 U.S.C. 1367 because the claims are so related to the FLSA claims as to form part of the same case or controversy.

4. Venue is proper pursuant to 28 U.S.C. 1391(b) because Defendant maintains an office located at 9443 N. Springboro Pike, conducts business throughout this District and Division, and a substantial part of the events and omissions giving rise to the claims occurred in this District and Division.

### **PARTIES**

5. At all times relevant herein, Plaintiff was a citizen of the United States, and a resident of Butler County, Ohio.

6. At all times relevant herein, Plaintiff was an employee within the meaning of 29 U.S.C. § 203(e) and O.R.C. § 4111.03(D)(3).

7. At all times relevant herein, Defendant was a foreign corporation, organized and existing under the laws of the State of Massachusetts, licensed to conduct business in the State of Ohio.

8. At all times relevant herein, Defendant was an employer within the meaning of 29 U.S.C. § 203(d) and O.R.C. § 4111.03(D)(2).

9. At all times relevant herein, Defendant was an enterprise within the meaning of 29 U.S.C. § 203(r).

10. At all times relevant herein, Defendant was an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(s)(1).

11. At all times relevant herein, Plaintiff was an employee engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. §§ 206-207.

12. As a regular and recurrent part of Plaintiffs' employment duties, they processed sales transactions and services by regularly using instrumentalities of interstate commerce in their work. Plaintiffs received and made telephone calls from Defendant's customers and potential customers using telephones, computers, and headsets, which also traveled in interstate commerce.

13. Written consents to join this action as to Count One, as and when executed by other individual plaintiffs, will be filed pursuant to 29 U.S.C. § 216(b).

### **FACTUAL ALLEGATIONS**

14. Defendant is a corporation that provides legal, regulatory, and business information and analytics to its customers.

15. Plaintiff was employed by Defendant between approximately September 2014 and September 2016 at Defendant's Miamisburg, Ohio location.

16. Plaintiff and other similarly-situated employees were employed by Defendant as telephonic account executives in locations throughout the United States, including Ohio, and they were responsible for performing inside sales of Defendant's products.

17. Upon information and belief, Plaintiff and other similarly-situated telephonic account executives were classified by Defendant as "exempt" from the FLSA and OMFWSA's overtime requirements and were paid a salary wage.

18. Plaintiff and other similarly-situated telephonic account executives were also paid commissions on sales they made to customers.

19. Plaintiff and other similarly-situated telephonic account executives earned less in commissions than their salary wages.

20. Plaintiff and other similarly-situated telephonic account executives did not perform sales work outside of LexisNexis' place of business.

21. If Plaintiff and other similarly-situated telephonic account executives worked less than 40 hours per week, their pay was docked.

22. Plaintiff and other similarly-situated telephonic account executives frequently worked over 40 hours per week, but were not paid overtime compensation for the hours worked over 40 each workweek.

**(Failure to Keep Accurate Records)**

23. Defendant failed to make, keep and preserve records of the hours worked by Plaintiff and other similarly-situated telephonic account executives.

24. Defendant required Plaintiff and other similarly-situated telephonic account executives to report that they worked 8 hours per day, and 40 hours per week, despite the fact that they frequently worked 50 to 60 hours per week.

25. As a result of Defendant's record keeping practices, the work performed by Plaintiff and other similarly-situated telephonic account executives is unrecorded in Defendant's time and earnings records.

**(Defendant Willfully Violated the FLSA)**

26. Defendant knowingly and willfully engaged in the above-mentioned violations of the FLSA.

**COLLECTIVE ACTION ALLEGATIONS**

27. Plaintiff brings Count One of this action on her own behalf pursuant to 29 U.S.C.

§ 216(b), and on behalf of all other persons similarly situated who have been, are being, or will be adversely affected by Defendant's unlawful conduct.

28. The class which Plaintiff seeks to represent and for whom Plaintiff seeks the right to send "opt-in" notices for purposes of the collective action, and of which Plaintiff is herself a member, is composed of and defined as follows:

All former and current telephonic account executives employed by Defendant between April 18, 2015 and the present.

29. Plaintiff is unable to state at this time the exact size of the potential class, but upon information and belief, avers that it consists of at least 100 persons.

30. This action is maintainable as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) as to claims for unpaid overtime compensation, liquidated damages, attorneys' fees and costs under the FLSA. In addition to Plaintiff, numerous current and former employees are similarly situated with regard to their wages and claims for unpaid wages and damages. Plaintiff is representative of those other employees and is acting on behalf of their interests as well as her own in bringing this action.

31. These similarly-situated employees are known to Defendant and are readily identifiable through Defendant's payroll records. These individuals may readily be notified of this action, and allowed to opt in pursuant to 29 U.S.C. § 216(b), for the purpose of collectively adjudicating their claims for unpaid overtime compensation, liquidated damages, attorneys' fees and costs under the FLSA.

### **CLASS ACTION ALLEGATIONS**

32. Plaintiff brings Count Two of this action pursuant to Fed. R. Civ. P. 23(a) and (b)(3) on behalf of herself and all other members of the class ("the Ohio Class") defined as:

All former and current telephonic account executives employed by Defendant between April 18, 2015 and the present.

33. The Ohio Class is so numerous that joinder of all class members is impracticable. Plaintiff is unable to state at this time the exact size of the potential Ohio Class, but upon information and belief, avers that it consists of at least 100 persons.

34. There are questions of law or fact common to the Ohio Class, including but not limited to the following:

(a) whether Defendant misclassified its telephonic account executives as exempt from the overtime requirements of the FLSA and OMFWSA; and

(b) what amount of monetary relief will compensate Plaintiff Tenola Oliver and other members of the Ohio class for Defendant's violation of O.R.C. §§ 4111.03 and 4111.10.

35. The claims of named Plaintiff Tenola Oliver are typical of the claims of other members of the Ohio Class. Named Plaintiff's claims arise out of the same uniform course of conduct by Defendant, and are based on the same legal theories, as the claims of other Ohio Class members.

36. Named Plaintiff Tenola Oliver will fairly and adequately protect the interests of the Ohio Class. Her interests are not antagonistic to, but rather are in unison with, the interests of other Ohio Class members. The named Plaintiff's counsel has broad experience in handling class action wage-and-hour litigation, and is fully qualified to prosecute the claims of the Ohio Class in this case.

37. The questions of law or fact that are common to the Ohio Class predominate over any questions affecting only individual members. The primary questions that will determine Defendant's liability to the Ohio Class, listed above, are common to the Ohio Class as a whole, and predominate over any questions affecting only individual class members.

38. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Requiring Ohio Class members to pursue their claims individually would entail a host of separate suits, with concomitant duplication of costs, attorneys' fees, and demands on court resources. Many class members' claims are sufficiently small that they would be reluctant to incur the substantial cost, expense, and risk of pursuing their claims individually. Certification of this case pursuant to Fed. R. Civ. P. 23 will enable the issues to be adjudicated for all class members with the efficiencies of class litigation.

**COUNT ONE**  
**(Fair Labor Standards Act Violations)**

39. Plaintiff incorporates by reference the foregoing allegations as if fully rewritten herein.

40. Defendant's practice and policy of misclassifying Plaintiff and other similarly-situated employees as exempt violated the FLSA, 29 U.S.C. §§ 201-219.

41. Defendant's practice and policy of not paying Plaintiff and other similarly-situated employees overtime compensation at a rate of one and one-half times their regular rate of pay for the hours they worked over 40 each workweek violated the FLSA, 29 U.S.C. §§ 201-219.

42. By designating Plaintiff and other similarly-situated employees as "exempt," and by failing to pay Plaintiff and other similarly-situated employees overtime compensation, Defendant willfully, knowingly and/or recklessly violated the provisions of the FLSA.

43. As a result of Defendant's practices and policies, Plaintiff and other similarly-situated employees have been damaged in that they have not received wages due to them pursuant to the FLSA.

**COUNT TWO**  
**(Violations of Ohio Revised Code § 4111.03)**

44. Plaintiff incorporates by reference the foregoing allegations as if fully rewritten herein.

45. Defendant's practice and policy of misclassifying Plaintiff and other similarly-situated employees as exempt violated the OMFWSA, O.R.C. § 4111.03.

46. Defendant's practice and policy of not paying Plaintiff and other similarly-situated employees overtime compensation at a rate of one and one-half times their regular rate of pay for the hours they worked over 40 each workweek violated the OMFWSA, O.R.C. § 4111.03.

47. By designating Plaintiff and other similarly-situated employees as "exempt," and by failing to pay Plaintiff and other similarly-situated employees overtime compensation, Defendant willfully, knowingly and/or recklessly violated the provisions of the OMFWSA.

48. As a result of Defendant's practices and policies, Plaintiff and other similarly-situated employees have been damaged in that they have not received wages due to them pursuant to the OMFWSA.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, and all those similarly situated, collectively pray that this Honorable Court:

A. Issue an order permitting this litigation to proceed as a collective action, and certifying the Ohio Class pursuant to Fed. R. Civ. P. 23(a) and (b)(3);

B. Order prompt notice, pursuant to 29 U.S.C. § 216(b), to all class members that this litigation is pending and that they have the right to "opt in" to this litigation;

C. Award Plaintiff and the class she represents actual damages for unpaid wages;

D. Award Plaintiff and the class she represents liquidated damages equal in amount to the unpaid wages found due to Plaintiff and the class;



E. Award Plaintiff and the class she represents pre- and post-judgment interest at the statutory rate;

F. Award Plaintiff and the class she represents attorneys' fees, costs, and disbursements; and

G. Award Plaintiff and the class she represents further and additional relief as this Court deems just and proper.

Respectfully submitted,

/s/ Lori M. Griffin  
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**JURY DEMAND**

Plaintiff demands a trial by jury on all eligible claims and issues.

/s/ Lori M. Griffin  
One of the Attorneys for Plaintiff